

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

MICHAEL YOUNG,)
Plaintiff)
v.)
COOPER LIGHTING, INC.,) CV: 2:07-cv-130-MHT
A Delaware Corporation,)
Defendant.)

PETITION FOR REMAND

____ COMES NOW the Plaintiff, Michael Young, and petitions this Court to remand this case back to state court in Barbour County, Alabama. As grounds for said motion, Plaintiff would show unto this Court as follows:

1. This is a state law age discrimination case.
2. The Plaintiff originally filed this case in state court.
3. The complaint filed by the Plaintiff waived any recovery above \$74,999.00.
4. The Plaintiff has filed his affidavit (Attachment A) unequivocally waiving any recovery over \$74,999.00 under oath.
5. There is no federal jurisdiction, as the amount in controversy requirement of \$75,000.00 for diversity jurisdiction is not met.
6. There is no federal question jurisdiction as Plaintiff has alleged only a violation of Alabama State law.

7. Defendant has the burden to establish federal jurisdiction. Removal statutes must be strictly construed because of the significant federalism concerns raised by removal jurisdiction. *Cowan v. Combined Ins. Co. Of America*, 67 F. Supp. 2d 1312, (M.D. Ala. 1999).

8. Under the well-pleaded complaint rule, the Plaintiff is the master of what law he will rely upon and may avoid federal jurisdiction by exclusive reliance on state law. *Cowan v. Combined Ins. Co. Of America*, 67 F. Supp. 2d 1312, (M.D. Ala. 1999).

9. Plaintiff requests this court to remand this case back to the Barbour County Circuit Court and seeks costs and reasonable attorney's fees associated with opposing federal jurisdiction.

Respectfully submitted,

s/Jerry Roberson
Jerry Roberson (ROB010)
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CERTIFICATE OF SERVICE

I hereby certify that on the 6th day of March, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Emily S. Blumenthal, Esq.
Matthew A. Freeman, Esq.
JACKSON LEWIS LLP
1900 Marquis One Tower
245 Peachtree Center Avenue, N.E.
Atlanta, GA 30303-1226

s/Jerry Roberson

OF COUNSEL

IN THE CIRCUIT COURT OF BARBOUR COUNTY, ALABAMA
EUFALA DIVISION

MICHAEL YOUNG,)
Plaintiff)
v.)
COOPER LIGHTING, INC.)
Defendant.)
CV:

AFFIDAVIT OF MICHAEL YOUNG

COMES NOW the undersigned, Michael Young and after being duly sworn, does state under oath as follows:

My name is Michael Young . I am an adult resident of Barbour County, Alabama. I reside at 17 Chattahoochee Courts in Eufaula, Alabama. I am over the age of 19 years and have personal knowledge of the facts set forth. I previously worked for Cooper Lighting, Inc. and I am over 40 years of age. On January 12, 2007, I filed a civil action against Cooper Lighting, Inc. in the Circuit Court of Barbour County, Alabama. I have been advised that I may bring my claim for age discrimination under Alabama State law in the Circuit Court of Barbour County. I understand I must limit my damages to less than \$75,000.00. I waive any claim to damages over \$74,999.00. I am seeking reinstatement and not front pay. Further, I waive and will not accept any amount over \$74,999.00 including any awards of attorneys' fees.

Further the affiant saith not.

Michael Young
Michael Young

Sworn to and subscribed before me this 23 day of February, 2007.

Sally Dunn

Notary Public

My Commission Exp: 4/28/08